

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

D'MONTEIRIO GIBSON,

Plaintiff,

V.

) Docket No. 5:24-cv-40-DCB-LGI

FEDERAL EXPRESS CORPORATION,

Defendant.

PETITION AND NOTICE OF REMOVAL OF CIVIL ACTION

Defendant Federal Express Corporation (“FedEx”) files this Petition and Notice of Removal of Civil Action pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446 to remove Case No. 23-CV-646-LT from the Circuit Court for Lincoln County, Mississippi to the United States District Court for the Southern District of Mississippi, Western Division. This Court has diversity jurisdiction over Plaintiff’s claim against FedEx under 28 U.S.C. §1332.

STATEMENT OF THE CASE

1. On November 20, 2023, Plaintiff D'Monterrio Gibson ("Plaintiff") filed his Complaint in the Circuit Court for Lincoln County, Mississippi styled *D'Monterrio Gibson v. Federal Express Corporation, Brandon Case, Gregory Case, and Adcamp, Inc.*, Case No. 23-cv-646-LT (the "State Court Action"). A certified copy of the State Court File is attached hereto as **Exhibit A** pursuant to 28 U.S.C. § 1446(a).

2. FedEx was served with the summons and Complaint on December 6, 2023.

3. The Complaint asserts a state-law claim for intentional infliction of emotional distress (“IIED”) against FedEx and asserts various torts against the remaining defendants, stemming from a January 24, 2022 shooting incident during which Defendants Brandon and Gregory Case allegedly chased Plaintiff in an Adcamp vehicle and fired shots at him while Plaintiff was performing his FedEx courier delivery route in Rankin County, Mississippi.

4. On April 12, 2024, the state court granted FedEx’s motion to sever Plaintiff’s IIED claim against FedEx from his claims against the remaining defendants. *See* Exhibit A at p. 268, a copy of the Court’s April 12, 2024 Order.

DIVERSITY JURISDICTION EXISTS UNDER 28 U.S.C. § 1332

5. Diversity jurisdiction exists under 28 U.S.C. § 1332.

6. Plaintiff is a resident of Hinds County, Mississippi. *See* Plaintiff’s Complaint, ¶1.

7. FedEx is a foreign, for-profit corporation with its principal place of business in Tennessee, and FedEx is incorporated in Delaware. Since 1975, FedEx’s headquarters and principal place of business have been in Memphis, Tennessee. Currently, FedEx’s World Headquarters and principal place of business are located at 3610 Hacks Cross Road, Memphis, Tennessee 38125. *See* Plaintiff’s Complaint,

¶2; Mississippi Secretary of State website, <https://corp.sos.ms.gov/corp/portal/c/page/corpBusinessIdSearch/portal.aspx#> (last visited April 15, 2024).¹

8. Additionally, the amount in controversy exceeds \$75,000, exclusive of interest and costs. Plaintiff expressly seeks damages against FedEx in this lawsuit, including for compensatory damages, punitive damages, and attorneys' fees in excess of \$5,000,000. See Plaintiff's Complaint, Ad Damnum. 28 U.S.C. § 1446(c)(2) provides—

If removal of a civil action is sought on the basis of the jurisdiction conferred by section 1332(a), the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy...

ALL PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED

9. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders from the State Court Action that have been served on FedEx are being filed with this Notice of Removal and are attached hereto as **Exhibit A**.

10. Additionally, FedEx will serve written notice upon Plaintiff and file a Notice of Filing Notice of Removal with the state court as provided in 28 U.S.C. § 1446(d).

REMOVAL IS TIMELY

11. Before the state court granted FedEx's motion to sever, this action was not removable based on diversity jurisdiction because the Defendants Brandon and Gregory Case and Defendant Adcamp, Inc. reside in Mississippi, as does Plaintiff.

¹ This Court can take judicial notice of matters of public record, including a state agency's website. See e.g., *Brown v. Attala Steel Indus., LLC*, No. 4:23-cv-00114-MPM-DAS, 2024 U.S. Dist. LEXIS 51295 at *7, fn. 1 (N.D. Miss. Mar. 22, 2024) (taking judicial notice of information regarding the officers, directors, and agents of the defendant LLC available on the Mississippi Secretary of State's website).

However, pursuant to the state court's Order severing this action, FedEx is the only defendant in Plaintiff's action against FedEx, and there is complete diversity between Plaintiff and FedEx.

12. This Notice of Removal has been filed within 30 days after the state court entered its Order severing FedEx from the State Court Action, which was the first time there was federal diversity jurisdiction. Removal is therefore timely under 28 U.S.C. § 1446(b)(3).

VENUE IS PROPER IN THE SOUTHERN DISTRICT OF MISSISSIPPI

13. Venue is proper in this Court under 28 U.S.C. §§ 1441(a) and 1446(a) because the United States District Court for the Southern District of Mississippi is the federal judicial district embracing the Circuit Court for Lincoln County, Mississippi, where the State Court Action was originally filed.

WHEREFORE, Defendant FedEx hereby removes the above-styled civil action to this Court as set forth herein.

Dated: April 17, 2024.

RESPECTFULLY SUBMITTED,

s/ Michael Williams

Michael Williams (MS Bar #104537)

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CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2024, a copy of the foregoing was served on the parties listed below via U.S. Mail, postage prepaid:

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